

ORDINANCE NO. 04-16

ORDINANCE AMENDING SECTION 11-3.201, ARTICLE 3,
CHAPTER 11 OF THE HAYWARD MUNICIPAL CODE
RELATING TO PUBLIC SEWER CONNECTIONS IN THE
MT. EDEN ANNEXATION AREA

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. FINDINGS. The proposed amendment establishes an exception to the provisions of the Public Utilities Chapter of the Municipal Code that require connection to the public sewer system if a property is within 200 feet of such system. Specifically, the amendment would allow specified properties in the Mt. Eden Annexation area up to 10 years to connect to the public sewer system, provided certain conditions are met.

The City Council finds and determines as follows:

- A. The proposed amendment will minimize fiscal impacts on residents and owners in the Mt. Eden Annexation area by allowing them up to 10 years to connect their properties to the public sewer system, provided their existing septic systems are operating sufficiently and provided no expansion of use occurs that would generate additional sewer discharge.
- B. The proposed amendment is in conformance with the purposes of all applicable, officially adopted policies and plans, since potential health hazards related to wastewater disposal for a limited number of properties would be addressed by requiring connection to the public sewer system should a private septic system fail.
- C. Streets and public facilities, proposed to be improved with annexation, are currently adequate to support the existing uses potentially affected by the amendment.

Section 2. SCOPE. The proposed amendment applies to properties in the Mt. Eden Annexation Area, which are identified in the attached map, Exhibit "A" and the attached list of potentially affected properties, Exhibit "B," incorporated herein by reference.

Section 3. AMENDMENT. Chapter 11, Article 3, section 11-3.201 of the Hayward Municipal Code related to requirements to connect to the municipal sewer system is hereby amended as follows:

"SEC. 11-3.201 DUTY TO CONNECT TO MUNICIPAL SEWER.

The owner of any property used for human occupancy, employment, recreation, or other purpose, which abuts on any street, alley or right of way in which there is located a public sanitary sewer of the City, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with said public sewer in accordance with the provisions of this Article, within ninety (90) days after date of official notice to do so provided that said public sewer is within two hundred (200) feet of the property line, except:

(a) Any owner receiving such notice may apply in writing to the City Manager before expiration of said ninety (90) day period for a permit to delay the installation of such a sewer service not to exceed one (1) year if the owner can furnish sufficient evidence to the City Manager that:

- (1) Connection to the sewer at this time would be impractical due to personal hardship; and
- (2) The premises are now served by a septic tank; and
- (3) By written report of the Alameda County Department of Environment Health, the septic tank is operating efficiently now and that its continued operation would not create a hazard to public health.

Upon receipt of such evidence to the City Manager's satisfaction, the said extension of time for completing the connection may be granted in writing. Such a delay shall not be subject to further extensions.

(b) Any property legally serviced by a private septic system in the Mt. Eden Annexation area can delay connecting to the public sewer system for up to 10 years from the effective date of the annexation, provided that:

- (1) The owner of the affected property receiving official notice to connect to the public sewer system submits a written notice to the Director of Public Works within 90 days of receipt of such notice, indicating he/she wishes to delay connection;
- (2) There are no changes in use on the property, addition of facilities or other changes that increase the sewer discharge; and
- (3) The owner of the affected property provides written evidence to the City annually by December of each calendar year that the septic system is operating properly. Evidence can take the form of a visual inspection by a licensed plumbing contractor with experience in inspecting septic systems, the Alameda County Department of Environmental Health, or other qualified person as approved by the City.

Upon receipt of such evidence to the City Manager's satisfaction, the said extension of time for completing the connection may be granted in writing. Such a delay shall not be subject to further extensions.

Owners of properties affected by this exception shall be required to record with the Alameda County Recorder's Office a notice indicating that the property will be required to connect to the public sewer system upon written notice from the City of Hayward if failure of the septic system occurs, if expansion of use resulting in increased sewer discharge occurs or when the 10-year time frame expires, whichever first occurs.

Properties that connect to the City system will be required to pay all connection charges in effect at the time of connection."

Section 4. SEVERANCE. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the excised portion, can be reasonably interpreted to give effect to intentions of the City Council.

Section 5. EFFECTIVE DATE. This ordinance shall apply only if annexation of the involved properties is approved, and shall become effective upon the effective date of such annexation.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 12th day of October, 2004, by Council Member Dowling.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the 19th day of October, 2004, by the following votes of members of said City Council:

AYES: COUNCIL MEMBERS: Jimenez, Quirk, Halliday, Ward, Dowling, Henson
MAYOR: Cooper

NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

APPROVED: Roberta Cooper
Mayor of the City of Hayward

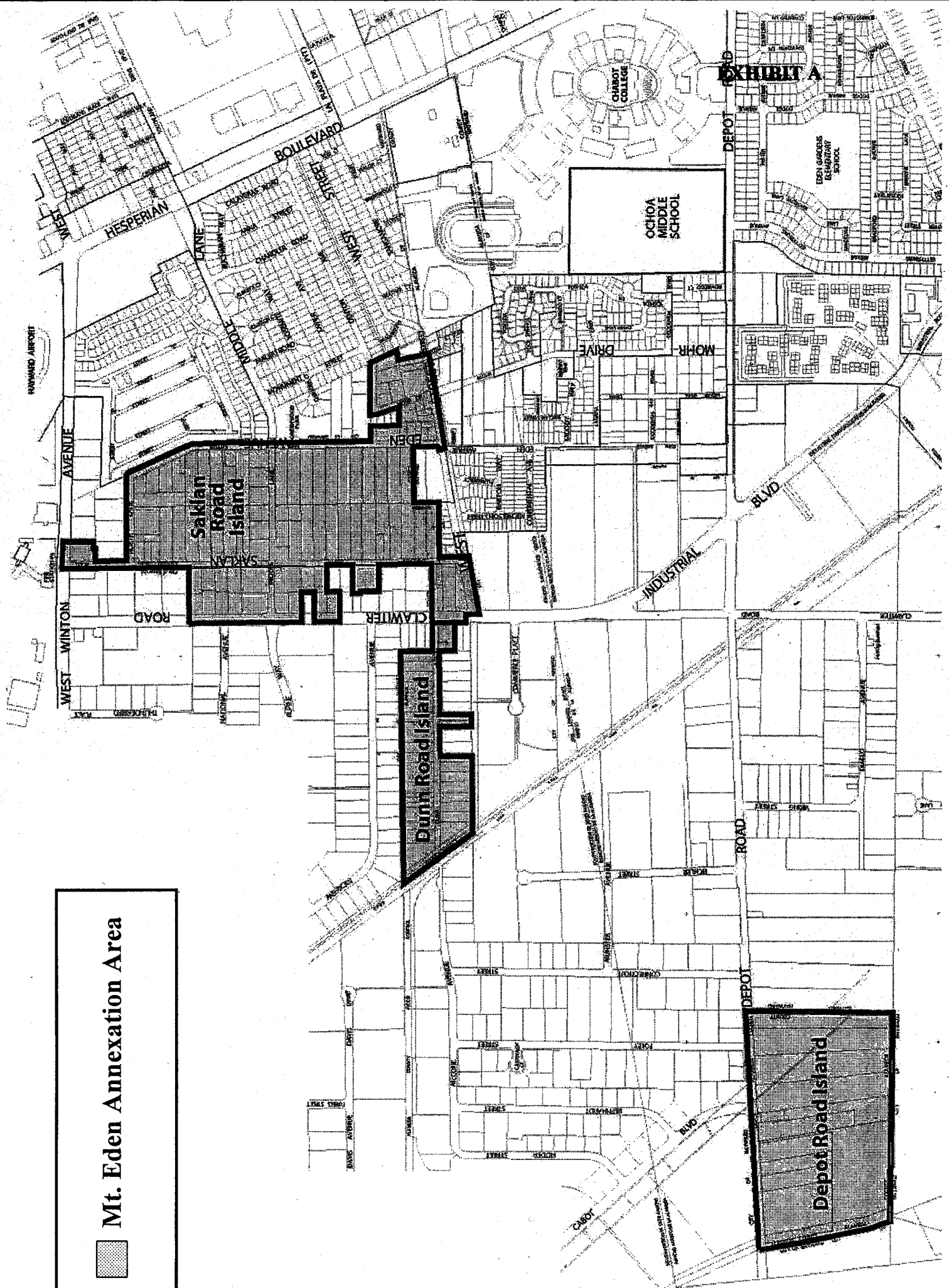
DATE: October 28, 2004

ATTEST: Angelia Reyes
City Clerk of the City of Hayward

APPROVED AS TO FORM:

M. O. John
City Attorney of the City of Hayward

Mt. Eden Annexation Area



Mt. Eden Annexation Study Area

Information current as of June, 2004

Unincorporated Island	Assessors Parcel Number	Street Number	Street Name	Owner Name	Parcel Acreage
DUNN ROAD	439-0013-011-02	2347	DUNN RD	MANUEL M & JOHN DEFREITAS	0.89
DUNN ROAD	439-0013-012	2377	DUNN RD	MANUEL M & MICHELINE DEFREITAS	0.45
DUNN ROAD	439-0013-013	2393	DUNN RD	MANUEL M & JOHN DEFREITAS	0.23
DUNN ROAD	439-0013-014-02	2417	DUNN RD	M & MICHELINE DEFREITAS	0.45
DUNN ROAD	439-0013-015	2433	DUNN RD	SIDNEY & AMAL DAHRO	0.59
DUNN ROAD	439-0013-016-02	2461	DUNN RD	ROBERT J & SUZETTE ROBELLO	0.40
DUNN ROAD	439-0013-017-02	2493	DUNN RD	ALICE SILVA	0.59
DUNN ROAD	439-0013-018-02	2515	DUNN RD	ALICE SILVA	0.83
DUNN ROAD	439-0013-019	2474	DUNN RD	SIDNEY & AMAL DAHRO	0.56
DUNN ROAD	439-0013-020-02	2460	DUNN RD	KENNETH M & JOAN Y MCRAE	0.46
DUNN ROAD	439-0013-021-02	2432	DUNN RD	DAVID A JUSTICE	0.46
DUNN ROAD	439-0013-022	2416	DUNN RD	ANTHONY & MARTINA JAUREGUI	0.45
DUNN ROAD	439-0013-023	2392	DUNN RD	STEVEN & FRANCES R GUSMAN	0.46
DUNN ROAD	439-0013-025-01	2330	DUNN RD	JAMES E & DARLA R COLEMAN	0.91
DUNN ROAD	439-0013-026		DUNN RD	ALAMEDA COUNTY FLOOD CONTROL	0.51
DUNN ROAD	439-0013-027		DUNN RD	ALAMEDA COUNTY FLOOD CONTROL	0.49
DUNN ROAD	439-0016-015	2139	DUNN RD	DAVID D PEDROSA	0.46
DUNN ROAD	439-0016-016-02	2181	DUNN RD	VINCENT ROOFING CO INC	0.46
DUNN ROAD	439-0016-017-02	2155	DUNN RD	VINCENT ROOFING CO INC	0.45
DUNN ROAD	439-0016-018-02	2215	DUNN RD	RJ & LLC	1.35
DUNN ROAD	439-0016-019-02	2227	DUNN RD	SHERMAN TRUST	0.45
DUNN ROAD	439-0016-020	2249	DUNN RD	SHERMAN TRUST	0.90
DUNN ROAD	439-0016-021-02	2283	DUNN RD	MICHAEL JARDIN	0.45
DUNN ROAD	439-0016-022	2315	DUNN RD	MANUEL G & BEVERLY E JARDIN	0.45
DUNN ROAD	439-0016-023	2316	DUNN RD	JAMES E & DARLA R COLEMAN	0.25
DUNN ROAD	439-0016-026	2242	DUNN RD	ROSE BATCHELOR	0.29
DUNN ROAD	439-0016-027	2228	DUNN RD	ELENA & ANTONIO MACIAS	0.26
DUNN ROAD	439-0016-032-02	2130	DUNN RD	RALPH A MARINAI	0.18
DUNN ROAD	439-0016-033-04	2116	DUNN RD	RALPH A MARINAI	0.44
DEPOT ROAD	439-0070-003	3696	DEPOT RD	DORRIS RUBEN P & DORRIS AUTO W	2.91
DEPOT ROAD	439-0070-004	3720	DEPOT RD	PAUL R DORRIS	4.73
DEPOT ROAD	439-0070-005-01	3744	DEPOT RD	BARYALAI & MASOOD FEROZ	2.68
DEPOT ROAD	439-0070-005-02	3760	DEPOT RD	GHULAM & NAJEEBA N RABANI	2.35
DEPOT ROAD	439-0070-006	3792	DEPOT RD	ETHEL J LUTSCHAN	4.97
DEPOT ROAD	439-0070-008-04	3826	DEPOT RD	J & M INC	2.27

Mt. Eden Annexation Study Area

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DEPOT ROAD	439-0070-008-05		DEPOT RD	CITY OF HAYWARD	0.03
DEPOT ROAD	439-0070-008-06	3810	DEPOT RD	ALADDIN DEPOT PARTNERSHIP	2.72
DEPOT ROAD	439-0070-009	3862	DEPOT RD	EASH JON & MARGARET A TRUST	8.23
DEPOT ROAD	439-0070-010-03		DEPOT RD	CITY OF HAYWARD	0.73
DEPOT ROAD	439-0070-012-02	3878	DEPOT RD	JON R & MARGARET A EASH	1.95
DEPOT ROAD	439-0070-013-01	3890	DEPOT RD	ANDREW & JUDITH R WEISS	2.91
DEPOT ROAD	439-0070-014	3898	DEPOT RD	LEE TOMPKINS	4.19
SAKLAN ROAD	441-0003-010-02	1376	W WINTON AVE	ELINOR R CHRISTIANSEN	0.71
SAKLAN ROAD	441-0065-023		WEST ST	ALAMEDA COUNTY FLOOD CONTROL	0.52
SAKLAN ROAD	441-0080-001-02	24308	EDEN AVE	GUADALUPE O YEPEZ	0.47
SAKLAN ROAD	441-0080-003	24495	MOHR DR	ROBERT B & COLLEEN R LAVASSANI	0.43
SAKLAN ROAD	441-0080-004	24519	MOHR DR	JAMES H & SANDRA L LOVELL	0.12
SAKLAN ROAD	441-0080-005-02	24525	MOHR DR	JAMES H & SANDRA L LOVELL	0.10
SAKLAN ROAD	441-0080-006-01		WEST ST	CITY OF HAYWARD	0.01
SAKLAN ROAD	441-0080-006-02	1643	WEST ST	USHMENDRA & SUNITA KUMAR	0.13
SAKLAN ROAD	441-0080-007-02	1655	WEST ST	LYN M & MARILOU J KERNS	0.15
SAKLAN ROAD	441-0080-008	1677	WEST ST	JOSE L PEREZ	0.11
SAKLAN ROAD	441-0080-010-01	24486	EDEN AVE	GUADALUPE O YEPEZ	0.18
SAKLAN ROAD	441-0080-011-02	24388	EDEN AVE	GUADALUPE O YEPEZ	0.20
SAKLAN ROAD	441-0080-012	24364	EDEN AVE	GUADALUPE O YEPEZ	0.19
SAKLAN ROAD	441-0080-013	24408	MOHR DR	JACINTO M CALING	0.25
SAKLAN ROAD	441-0080-014	1540	DENTON AVE	MOHAMMED S HUSSAIN	0.20
SAKLAN ROAD	441-0080-015	1524	DENTON AVE	RUSSELL D & ISABELL L COLLINS	0.46
SAKLAN ROAD	441-0080-016	1516	DENTON AVE	GEORGE R CUNNINGHAM	0.41
SAKLAN ROAD	441-0080-018	1573	WEST ST	GUADALUPE MARQUEZ	0.22
SAKLAN ROAD	441-0080-019	1585	WEST ST	ROBERT B & COLLEEN R LAVASSANI	0.23
SAKLAN ROAD	441-0080-020	24524	MOHR DR	PAUL & BELLA KALKA	0.84
SAKLAN ROAD	441-0080-021	24488	MOHR DR	PAUL & BELLA KALKA	0.40
SAKLAN ROAD	441-0080-022		EDEN AVE	COUNTY OF ALAMEDA	
SAKLAN ROAD	441-0080-027	1689	WEST ST	GUADALUPE O YEPEZ	0.13
SAKLAN ROAD	441-0080-028	24492	EDEN AVE	GUADALUPE O YEPEZ	0.13
SAKLAN ROAD	441-0087-001	1508	MIDDLE LN	RICHARD E BRENKMITZ	0.93
SAKLAN ROAD	441-0087-002	24013	EDEN AVE	RICHARD E BRENKMITZ	0.98
SAKLAN ROAD	441-0087-003-01		EDEN AVE	CITY OF HAYWARD	0.02
SAKLAN ROAD	441-0087-003-02	24019	EDEN AVE	ROBERT A & ROBERTA F PRATT	0.27

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SAKLAN ROAD	441-0087-004-01		EDEN AVE	CITY OF HAYWARD	0.00
SAKLAN ROAD	441-0087-004-02	24021	EDEN AVE B	ROBERT A & ROBERTA F PRATT	0.72
SAKLAN ROAD	441-0087-005-02	24131	EDEN AVE	DUTRA ENTERPRISES INC	0.99
SAKLAN ROAD	441-0087-006		EDEN AVE	DUTRA ENTERPRISES INC	1.01
SAKLAN ROAD	441-0087-007	24137	EDEN AVE	FUMI & MASUHO HIRAKAWA	0.99
SAKLAN ROAD	441-0087-008	24243	EDEN AVE	DUTRA ENTERPRISES INC	0.99
SAKLAN ROAD	441-0087-009	24249	EDEN AVE	DUTRA ENT INC	0.99
SAKLAN ROAD	441-0087-010	24255	EDEN AVE	DUTRA ENTERPRISES INCORPORATED	0.98
SAKLAN ROAD	441-0087-011-01		EDEN AVE	CITY OF HAYWARD	0.02
SAKLAN ROAD	441-0087-011-02	24361	EDEN AVE	GIOSSO 2003 TRUST	0.97
SAKLAN ROAD	441-0087-012	24367	EDEN AVE	ABRAMS TRUST	0.98
SAKLAN ROAD	441-0087-017-02	24180	SAKLAN RD	DEPINA VIVIAN HEIRS OF EST	1.01
SAKLAN ROAD	441-0087-018	24178	SAKLAN RD	DEPINA VIVIAN HEIRS OF EST	1.01
SAKLAN ROAD	441-0087-019	24072	SAKLAN RD	DUTRA ENTERPRISES INC	1.00
SAKLAN ROAD	441-0087-020	24066	SAKLAN RD	DUTRA ENTERPRISES INC	0.89
SAKLAN ROAD	441-0087-021	24060	SAKLAN RD	DUTRA ENTERPRISES INC	0.83
SAKLAN ROAD	441-0087-022	23954	SAKLAN RD	ELLA M DAVIS	0.28
SAKLAN ROAD	441-0087-023	23948	SAKLAN RD	JOSE L & MARIA G CONTRERAS	1.09
SAKLAN ROAD	441-0087-024	23942	SAKLAN RD	DUTRA ENTERPRISES INC	0.90
SAKLAN ROAD	441-0087-025	23836	SAKLAN RD	FERNANDO RAMIREZ	1.00
SAKLAN ROAD	441-0087-026	23830	SAKLAN RD	SANDRA E GUDIEL	1.01
SAKLAN ROAD	441-0087-027-02	23724	SAKLAN RD	RICHARD L & SHARON S HANSON	1.00
SAKLAN ROAD	441-0087-028-02	23718	SAKLAN RD	RICHARD L & SHARON S HANSON	1.00
SAKLAN ROAD	441-0087-029-03	23612	SAKLAN RD	BERNABE M & CRUZ B ARANDA	0.35
SAKLAN ROAD	441-0087-030-10	1558	MIDDLE LN	NELSON W & GERALDINE G COELHO	0.48
SAKLAN ROAD	441-0087-030-15	23606	SAKLAN RD	GUADALUPE O YEPEZ	0.22
SAKLAN ROAD	441-0087-030-17	1580	MIDDLE LN	DAN T & EDNA DUBLIN	0.11
SAKLAN ROAD	441-0087-030-19	1560	MIDDLE LN	MAGDALENA M DIWA	0.74
SAKLAN ROAD	441-0090-001-02	23422	CLAWITER RD	ROBERT T & KATHLEEN A SKINNER	0.38
SAKLAN ROAD	441-0090-002		SAKLAN RD	ROBERT T & KATHLEEN A SKINNER	1.00
SAKLAN ROAD	441-0090-003		SAKLAN RD	ROBERT T & KATHLEEN A SKINNER	0.47
SAKLAN ROAD	441-0090-004	23831	SAKLAN RD	ROBERT T & KATHLEEN A SKINNER	0.48
SAKLAN ROAD	441-0090-007-04	23953	SAKLAN RD	B F WEST ENTERPRISES INC	1.02
SAKLAN ROAD	441-0090-010		SAKLAN RD	JAMES B & BEVERLY J MITCHELL	0.14
SAKLAN ROAD	441-0090-011	24191	SAKLAN RD	JAMES B & BEVERLY J MITCHELL	0.19

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SAKLAN ROAD	441-0090-012	24154	CLAWITER RD	PETER & MARGARET T MITCHELL	0.88
SAKLAN ROAD	441-0090-013	24170	CLAWITER RD	PETER & MARGARET T MITCHELL	0.53
SAKLAN ROAD	441-0090-014	24018	CLAWITER RD	PETER & MARGARET T MITCHELL	0.41
SAKLAN ROAD	441-0090-021	23636	CLAWITER RD	ROGER D & JANET P WAGNER	0.38
SAKLAN ROAD	441-0090-022	23572	CLAWITER RD	JEREMIAS & LORENA I SANCHEZ	0.38
SAKLAN ROAD	441-0090-024	23474	CLAWITER RD	STEVE & MELANIE JENKINS	0.39
SAKLAN ROAD	441-0092-001		SAKLAN RD	LOUIS H VOSS	0.50
SAKLAN ROAD	441-0092-002	23135	SAKLAN RD	DARRELL A DIAZ	0.46
SAKLAN ROAD	441-0092-003	23351	SAKLAN RD	DANIEL W & LENORA T BOBBITT	0.42
SAKLAN ROAD	441-0092-004-02	23286	CLAWITER RD	JANE S HERNANDEZ	0.95
SAKLAN ROAD	441-0092-005-02	23555	SAKLAN RD	BERKELEY LAND CO INC	1.02
SAKLAN ROAD	441-0092-006-04	23352	CLAWITER RD	THOMAS A DELCONTE	0.76
SAKLAN ROAD	441-0092-007	23222	CLAWITER RD	DANIEL W BOBBITT	0.38
SAKLAN ROAD	441-0092-008	23144	CLAWITER RD	MARCUS JAMES R TRUST	0.45
SAKLAN ROAD	441-0092-009	23040	CLAWITER RD	LOUIS H VOSS	0.39
SAKLAN ROAD	441-0095-001	1450	NORTH LN	RAFAEL & CONSUELO QUIROGA	0.98
SAKLAN ROAD	441-0095-002	1430	NORTH LN	FRANCES V MATTOS	0.97
SAKLAN ROAD	441-0095-003	23305	EDEN AVE	STEVEN D FULLER	0.29
SAKLAN ROAD	441-0095-004	23413	EDEN AVE	DAVID A & CONNIE DEETS	0.41
SAKLAN ROAD	441-0095-005	23521	EDEN AVE	OAKMAN FAMILY LIMITED PARTNERS	0.51
SAKLAN ROAD	441-0095-006	23529	EDEN AVE	ARAUJO JAVIER C & L L TRUST	0.49
SAKLAN ROAD	441-0095-007	23537	EDEN AVE	ARAUJO JAVIER & LETICIA TRUST	0.12
SAKLAN ROAD	441-0095-008	23645	EDEN AVE	HOMER & ESTHER PAKDAMAN	0.96
SAKLAN ROAD	441-0095-009	23653	EDEN AVE	RUBEN P & RUBY T DORRIS	0.99
SAKLAN ROAD	441-0095-010	23761	EDEN AVE	GERALD M TILLEY	0.98
SAKLAN ROAD	441-0095-011-02	23761	EDEN AVE	GERALD M TILLEY	0.76
SAKLAN ROAD	441-0095-012-01	23877	EDEN AVE	WILLIAM L & ROSITA D IGNACIO	0.23
SAKLAN ROAD	441-0095-013	23885	EDEN AVE	JOHN & SHARON M CLAY	0.99
SAKLAN ROAD	441-0095-014	23993	EDEN AVE	WALTER C & CONSTANCE DANIELSEN	0.51
SAKLAN ROAD	441-0095-015	1505	MIDDLE LN	WALTER C & CONSTANCE DANIELSEN	0.51
SAKLAN ROAD	441-0095-016	1505	MIDDLE LN	WALTER C & CONSTANCE DANIELSEN	0.51
SAKLAN ROAD	441-0095-017	1541	MIDDLE LN	TRUMAN & LORETTA PATTERSON	0.42
SAKLAN ROAD	441-0095-018	1561	MIDDLE LN	JOYCE K WOOD	0.54
SAKLAN ROAD	441-0095-019-01		SAKLAN RD	COUNTY OF ALAMEDA	
SAKLAN ROAD	441-0095-019-02	23572	SAKLAN RD	JON SYLVESTER	0.52

Mt. Eden Annexation Study Area

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Unincorporated Island	Assessors Parcel Number	Street Number	Street Name	Owner Name	Parcel Acreage
SAKLAN ROAD	441-0095-020-02	23464	SAKLAN RD	MARC A CHRISTIANSEN	0.50
SAKLAN ROAD	441-0095-021-02	23356	SAKLAN RD	MARC A CHRISTIANSEN	0.51
SAKLAN ROAD	441-0095-022-02		SAKLAN RD	MARC A CHRISTIANSEN	1.00
SAKLAN ROAD	441-0095-023-02	23348	SAKLAN RD	MARC A CHRISTIANSEN	0.99
SAKLAN ROAD	441-0095-024-02	23240	SAKLAN RD	SUSAN A WINTER	1.00
SAKLAN ROAD	441-0095-025-02	23132	SAKLAN RD	SUSAN A WINTER	1.00
SAKLAN ROAD	441-0095-026	23128	SAKLAN RD	OKUDA MARY H BYPASS TRUST & MA	1.00
SAKLAN ROAD	441-0095-027	23124	SAKLAN RD	TSUNEYOSHI SURUKI	1.00
SAKLAN ROAD	441-0095-028-04	23016	SAKLAN RD	JORGE L & MARIA E GALARZA	0.24
SAKLAN ROAD	441-0095-028-06	23016	SAKLAN RD	JORGE L & MARIA E GALARZA	0.20
SAKLAN ROAD	441-0095-029	23008	SAKLAN RD	NEW DIMENSION DELIVERANCE	0.27
SAKLAN ROAD	441-0095-030	1470	NORTH LN	KEITH L MCCAFFERY	0.24

Daily Review

c/o ANG Newspapers
22533 Foothill Blvd.
Hayward, CA 94541
Legal Advertising
(800) 595-9595 opt.4

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OCT 27 2004

Dept. of Public Works

CITY OF HAYWARD
777 B STREET, ATTN: DPT. OF PUBLIC WORKS
HAYWARD CA 94541

PROOF OF PUBLICATION

FILE NO.

In the matter of

PUBLIC SEWER CONNECTIONS IN THE MT. EDEN ANNEXATION AREA

The Daily Review

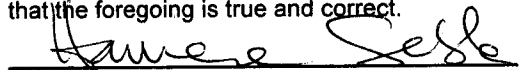
I am a citizen of the United States; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the Legal Advertising Clerk of the printer and publisher of The Daily Review, a newspaper published in the English language in the City of Hayward, County of Alameda, State of California.

I declare that the Daily Review is a newspaper of general circulation as defined by the laws of the State of California as determined by this court's decree, dated March 2, 1950, in the action entitled In the Matter of the Ascertainment and Establishment of the Standing of The Daily Review as a Newspaper of General Circulation, case number 221938. Said decree states that "'The Daily Review' has been established, printed, and published daily in the City of Hayward, County of Alameda, State of California, for one year or more next preceding the date of the filing of said petition; that it is a newspaper published for the dissemination of local and telegraphic news and intelligence of a general character and has a bona fide subscription list of paying subscribers; ... [] [and] THEREFORE, ... 'The Daily Review' is hereby determined and declared to be a newspaper of general circulation [within the meaning of Government Code §§ 6000 et seq.]" Said decree has not been revoked, vacated or set aside.

I declare that the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

10/16/04

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.



Public Notice Advertising Clerk

Legal No.

0000425642

PUBLIC NOTICE OF AN INTRODUCTION OF AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF HAYWARD

AN ORDINANCE AMENDING SECTION 11-3.201, ARTICLE 3, CHAPTER 11 OF THE HAYWARD MUNICIPAL CODE RELATING TO PUBLIC SEWER CONNECTIONS IN THE MT. EDEN ANNEXATION AREA

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. **FINDINGS.** The proposed amendment establishes an exception to the provisions of the Public Utilities Chapter of the Municipal Code that requires connection to the public sewer system if a property is within 200 feet of such system. Specifically, the amendment would allow specified properties in the Mt. Eden Annexation area up to 10 years to connect to the public sewer system, provided certain conditions are met.

The City Council finds and determines as follows:

A. The proposed amendment will minimize fiscal impacts on residents and owners in the Mt. Eden Annexation area by allowing them up to 10 years to connect their properties to the public sewer system, provided their existing septic systems are operating sufficiently and provided no expansion of use occurs that would generate additional sewer discharge.

B. The proposed amendment is in conformance with the purposes of all applicable, official adopted policies and plans, since potential health hazards related to wastewater disposal for a limited number of properties would be addressed by requiring connection to the public sewer system should a private septic system fail.

C. Streets and public facilities, proposed to be improved with annexation, are currently adequate to support the existing uses potentially affected by the amendment.

Section 2. **SCOPE.** The proposed amendment applies to properties in the Mt. Eden Annexation Area, which are identified in the attached map, Exhibit "A" and the attached list of potential affected properties, Exhibit "B," incorporated herein by reference.

Section 3. **AMENDMENT.** Chapter 11, Article 3, section 11-3.201 of the Hayward Municipal Code related to requirements to connect to the municipal sewer system is hereby amended as follows:

"SEC. 11-3.201 DUTY TO CONNECT TO MUNICIPAL SEWER.

The owner of any property used for human occupancy, employment, recreation, or other purpose, which abuts on any street, alley or right of way in which there is located a public sanitary sewer of the City, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with said public sewer in accordance with the provisions of this Article, within ninety (90) days after date of official notice to do so provided that said public sewer is within two hundred (200) feet of the property line, except:

(a) Any owner receiving such notice may apply in writing to the City Manager before expiration of said ninety (90) day period for a permit to delay the installation of such a sewer service not to exceed one (1) year if the owner can furnish sufficient evidence to the City Manager that:

(1) Connection to the sewer at this time would be impractical due to personal hardship; and
(2) The premises are now served by a septic tank; and
(3) By written report of the Alameda County Department of Environmental Health, the septic tank is operating efficiently now and that its continued operation would not create a hazard to public health.

Upon receipt of such evidence to the City Manager's satisfaction, the said extension of time for completing the connection may be granted in writing. Such a delay shall not be subject to further extensions.

(b) Any property legally serviced by a private septic system in the Mt. Eden Annexation area can delay connecting to the public sewer system for up to 10 years from the effective date of the annexation, provided that:

(1) The owner of the affected property receiving official notice to connect to the public sewer system submits a written notice to the Director of Public Works within 90 days of receipt of such notice, indicating he/she wishes to delay connection;
(2) There are no changes in use on the property, addition of facilities or other changes that increase the sewer discharge; and

(3) The owner of the affected property provides written evidence to the City annually by December of each calendar year that the septic system is operating properly. Evidence can take the form of a visual inspection by a licensed plumbing contractor with experience in inspecting septic systems, the Alameda County Department of Environmental Health, or other qualified person as approved by the City.

Upon receipt of such evidence to the City Manager's satisfaction, the said extension of time for completing the connection may be granted in writing. Such a delay shall not be subject to further extensions.

Owners of properties affected by this exception shall be required to record with the Alameda County Recorder's Office a notice indicating that the property will be required to connect to the public sewer system upon written notice from the City of Hayward if failure of the septic system occurs, if expansion of use resulting in increased sewer discharge occurs or when the 10 year time frame expires, whichever first occurs.

Properties that connect to the City system will be required to pay all connection charges in effect at the time of connection."

Section 4. **SEVERANCE.** Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance which shall continue in full force and effect, provided that the remainder of the ordinance, at the time the excised portion, can be reasonably interpreted to give effect to intentions of the City Council.

Section 5. **EFFECTIVE DATE.** This ordinance shall apply only if annexation of the involved properties is approved, and shall become effective upon the effective date of such annexation.

Introduced at a regular meeting of the Hayward City Council held October 12, 2004, the above-entitled ordinance was introduced by Council Member Dowling.

This ordinance will be considered for adoption at the next meeting of the Hayward City Council, to be held on October 19, 2004, at 8:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this ordinance is available for examination by the public in the Office of the City Clerk.

Angela Reyes, City Clerk
City of Hayward

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